

11/21/05

December 28, 2005

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Art Unit 3764, Application No. 10/764,427, Fast Arm-Swing Tether  
Examiner: Mr. Tam M. Nguyen

Applicant submits the following comments and changes in response to Office Action mailed December 14, 2005.

1. Applicant is confused whether to respond with Claim 1 or Claim 2 by nature of previously filed non-compliant amendment but follows specific wording detailed in said Office Action. If it should be Claim 2, Applicant hereby requests Examiner to change below claim number 1 to number 2.

Claim 1 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. Applicant requests to revise Claim 1 as follows, with deletions struck through and additions underlined and italicized.

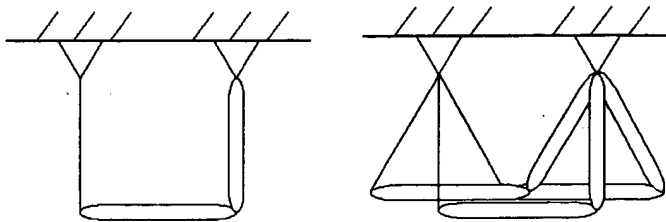
1. A device for running and walking comprising  
~~an about parallel to upper arm pendulum means for each lower arm~~ a pair of pendulum means that are about parallel to respective upper arms of a user, and  
a frontal protrusion means with support to said ~~parallel to upper arm~~ pair of pendulum means that ensures each parallel to upper arm pendulum means is about parallel to each respective upper arm.

Applicant contends that Fast Arm-Swing Tether is patentable, and if Examiner agrees but does not feel the changes submitted above are adequate, Applicant requests Examiner to write an acceptable claim.

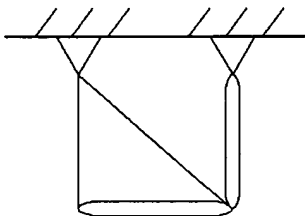
2. Claim 1 was rejected under 35 U.S.C. 102 as Chee discloses a device comprising a pair of pendulum means (130) that are about parallel to respective upper arms of a user, a frontal protrusion means (142) that ensures each pendulum means is about parallel to each respective upper arms (see Fig. 5).
  - a) Two skew lines may appear to be parallel if viewed from a specific angle or perspective, but not from everywhere else. An apparent parallel depiction in Figure 5 is not shown as parallel in Chee's preferred embodiment in Figure 1 between item 30 and right upper arm.
  - b) Chee's embodiment from Figure 5 projected item 142 from back of a chair, rendering it not comparable nor applicable to Applicant's Fast Arm-Swing Tether which is used for running or walking, without a chair.
  - c) Applicant's invention has only pendulum means and frontal protrusion means whereas Chee included other items that would destroy Applicant's device.



The left figure below essentially reproduces Figure 3 of Applicant's Specifications,



and figure at right shows how arm swings with pendulum means that keeps about parallel to user's upper arm. Chee included an additional item 20 in Figures 1 and 2 which was also shown as item 120 in Figure 5. Schematic superimposition of said item on Applicant's invention is illustrated in below figure.



Addition of the item above destroys the pendulum means advocated by Applicant as Chee included the equivalent of a diagonal bracing to a frame structure and consequently increased rigidity against lateral movement. Thus Chee's item 20/120, a diagonal tether that keeps arm steady, inhibits arm pendulum movement; therefore it eliminates item 30/130 from consideration as pendulum means – Chee simply did not have a pendulum. Applicant's invention without 20/120 yields results not remotely anticipated and not expected by Chee.

Applicant hopes the above discussion has been presented with sufficient clarity and valid rationale, and has adequately addressed objections raised in the Office Action.

Sincerely,

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